

SUBJECT: Native American Housing Enhancement Act of 2005

TO: National Office Officials
Rural Development State Directors

ATTN: Deputy Administrator, Multi-Family Housing Programs,
Deputy Administrator, Single Family Housing Programs, Housing
Program Directors, State Civil Rights Managers/Coordinators, and
Administrative Program Directors

PURPOSE/INTENDED OUTCOME:

The purpose of this Administrative Notice (AN) is to provide guidance to Rural Development employees who originate, service, and conduct compliance reviews of housing on how to implement the Native American Housing Enhancement Act of 2005 (NAHEA). Attached is Public Law No.109-136, Codified at 25 U.S.C. 4101 et. seq.

COMPARISON WITH PREVIOUS AN:

There has not been a previous AN issued on this subject.

IMPLEMENTATION AND RESPONSIBILITIES:

Rural Development employees who are responsible for loan and grant origination, servicing, and conducting compliance reviews on housing should follow the guidance provided by this AN.

On December 22, 2005, the President signed the NAHEA. It amended Title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.) which created the housing programs administered by the U.S. Department of Agriculture, Rural Development.

EXPIRATION DATE:
August 31, 2007

FILING INSTRUCTIONS:
Preceding RD Instruction 1901-E

The NAHEA excludes Indian tribes (including instrumentalities of such Indian Tribes), from the requirement to comply with Title VI of the Civil Rights Act of 1964, and Title VIII of the Civil Rights Act of 1968, allowing members of Indian tribes to be given preference for housing in accordance to the Native American Housing Assistance and Self Determination Act of 1996 (25 U.S.C. 4101 et. seq.)

The NAHEA does not exempt Indian tribes from complying with other laws that apply to recipients of federal financial assistance. Therefore, federally recognized Indian tribes must continue to comply with Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and Title IX of the Education Amendments Act of 1972, where applicable.

The NAHEA did not exempt the Indian tribes from complying with the accessibility requirements of the Fair Housing Amendments Act (FHAA) of 1988. This Act amended Title VIII of the Fair Housing Act of 1968, to include disability and familial status. Therefore, the NAHEA did not specifically exempt Indian tribes from the accessibility requirements of the FHAA. The requirements to construct multi-family housing complexes accessible to or adaptable for persons with disabilities are to be followed. This requirement shall be consistent with RD Instructions 7 CFR 3560, Section 3560.60, Design Requirements.

Pre-award and Post-award civil rights compliance reviews will be conducted to enforce the accessible design requirements. Compliance Reviews will be completed in accordance with RD Instruction 1901-E, Section 1901.204, and will be documented on Form RD 400-8, ACompliance Reviews.@

If you have questions concerning this AN, please contact Mr. Carlton L. Lewis, Manager, Program Compliance Branch, Civil Rights Staff on (202) 692-0097 (Voice), 692-0107 (TDD) or (202) 692-0305 (Fax).

(Signed by Sherie Hinton Henry)

SHERIE HINTON HENRY
Deputy Administrator
for Operations and Management

Attachment

Sent by electronic mail on 8/28/06 at 11:00am by CRS.
National Office Officials and Rural Development State Directors should advise other personnel as appropriate.